



## **CITY OF DANBURY**

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**ZONING BOARD OF APPEALS**  
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### ***ZONING BOARD OF APPEALS***

#### ***Minutes***

May 27, 2021

#### **ROLL CALL:**

Rodney Moore, Acting Chairman, called the web-based, ZOOM meeting to order at 7:09 p.m. Present by roll call were Joseph Hanna, Juan Rivas, and alternates: Peter DeLucia and Richard Roos. Mr. Moore seated Mr. DeLucia in place of Richard Jowdy and Mr. Roos in place of Michael Sibbitt. Staff present were Zoning Enforcement Officer Sean Hearty and Secretary Mary Larkin.

Absent: Richard Jowdy and Michael Sibbitt.

Mr. Moore announced that No. 21-09, 3 Lake Avenue Extension LLC, would not be heard tonight as the application has been continued to June 10, 2021.

Motion to hear Application Nos. 21-12, 21-14, 21-16, 21-17, 21-28, and 21-19 was made by Joseph Hanna, seconded by Richard Roos. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore.

**ACCEPTANCE OF MINUTES:** Unable to vote on the May 13, 2021 minutes with members present.

#### **PUBLIC HEARINGS:**

**#21-12: TDRAP LLC, Tim Draper, 12 Great Pasture Road, (L16010), IL-40 Zone**, Sec. 6.A.3.  
Reduce side yard setback from 20' to 2.5' to roof overhang; reduce minimum front yard setback from 30' to 14.5 to existing porch

Michael Mazzucco, P.E. appeared on behalf of this applicant. Mr. Mazzucco explained this is 1.5 acres in the IL-40 Zone. It has been improved with a two-family home in the front and buildings in the back serve the landscaping business, all of which are non-conforming. The proposal is to remove the buildings in the back for a proposed self-storage building and reduce the front building by over 50% to serve as an office for the self-storage business.

The two variances they are seeking, even though they are increasing the distance to the side yard by 2.5' to the overhang, and at the same time they are reducing the front setback only because the City wants that property so they will deed that as a "giving" to the City of Danbury, reducing the setback from the front line to the existing building.

Peter DeLucia asked exactly how much property is being given back to the City. Mr. Mazzucco responded that it was a parcel of about 10' tapering down to 3'. There were no other questions; no one to speak in favor or opposed.

Motion to close Application #21-12 was made by Juan Rivas; seconded by Peter DeLucia. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore.

Motion to vote was made by Joseph Hanna; seconded by Peter DeLucia. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore.

Motion to approve was made by Joseph Hanna; seconded by Peter DeLucia. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore.

**#21-14: Digilio, Stephen, 46 Wedgewood Drive, (C06023), RA-40 Zone**, Sec. 4.A.3 Reduce side yard setback from 15' to 2' for roof overhang on proposed accessory building.

Mr. Digilio presented his application. He wants to add a two-car garage for two classic cars. During the summertime they are stored in the existing garage, and he needs to enclose them during the winter. The only place they can be stored is at the end of the driveway. The proposed garage will be pre-fab, approximately 20' x 20' and will match the house with same roof. Mr. Digilio said no work will be done on the cars. Mr. Moore questioned the hardship other than the topography because Mr. Digilio currently has full use of the land as it is. Mr. Moore also said that as part of granting the variance, they have to ask if it is possible to move the garage away from the property line. Mr. Digilio said it might be possible, but the septic is there. Mr. Digilio said he might be able to move by a couple of feet to minimize as much as possible. Mr. Rivas commented on the steep drop in the back and had the same question about moving it a bit.

Mr. Moore read into the record the letter of opposition from the neighbor, Joseph & Allison Bianco. They stated their concerns.

Mr. Digilio reiterated there will not be any large mechanical work at all and is agreeable to moving the garage over as much as possible, maybe 4' which was his original plan.

Motion to close Application #21-14 was made by Joseph Hanna; seconded by Richard Roos. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore.

Motion to approve with a revised site plan for a 4' setback was made by Juan Rivas stating topography is a factor and it will not adversely affect the health, safety, and welfare of the neighborhood seconded by Joseph Hanna. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore.

**#21-16: 123 South King Street, Mercy Temple Church, E09097, RA-40 Zone,** Sec. 4.A.4.a(3)

Reduce lot area from one acre to 0.926 acre; Sec.4.A.4.a(4) reduce minimum front yard setback from 50' to 44.5'; Sec.8.B1.b(4) reduce minimum driveway width from 24' to 13.5'

Ward Mazzucco, Esq. appeared on behalf of the applicant. Mr. Mazzucco mentioned that some of the church leaders are also on the ZOOM call, and they can assist with any questions.

The building is the former KinderCare structure on South King Street. They are looking to transform the building into a church. The church currently owns the building. Mr. Mazzucco reviewed the requested variances. He said they might not need quite as much as they requested for the driveway, and he will explain as he goes on. He thinks he can reduce the request to 17.3' instead of 13.5' (Section 8.B.1.b.(4)).

Mr. Mazzucco said they have two letters in favor from neighbors, Ralph Petrellese and Raymond Loibl, and a letter from Gary Maigis who would like to have a renewed, green buffer and screening as a requirement. Mr. Mazzucco suggested that the buffer as a condition would be agreeable if the Board sees fit to do so. Mr. Moore mentioned that as per Zoning Regulations, a buffer is required. Mr. Moore acknowledged there will be adequate parking.

The hardship is the existing building, parking area, and driveway constructed 40 years ago.

Motion to close #21-16 was made by Juan Rivas; seconded by Joseph Hanna. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore.

Motion to vote was made by Joseph Hanna; seconded by Juan Rivas. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore.

Motion to approve with driveway width revised from 24' to 17.3' was made by Joseph Hanna because the hardship is the existing building, parking area, and driveway constructed 40 years ago and does not adversely affect the health, safety, and welfare of the community; seconded by Richard Roos. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore.

**#21- 17: 5 Shady Knolls, Neumann, Russell, (J04016 & J04017) RA-20 Zone,** Sec. 4.A.3. Reduce minimum rear yard setback from 35' to 3'.

Mr. Russell Neumann presented his application. Mr. Neumann explained his home is located on two lots on Candlewood Lake, primarily on the right side. In the past Mr. Neumann was granted three variances and one was for lot coverage. Mr. Neumann stated that after consulting with an engineer and a surveyor, he decided to have the property resurveyed. The re-delineation of the 440 line will allow him to plan the sunroom totally on his property. He already has a 3' setback for the deck, and he is asking for same for the sunroom. He will stay within the 33' lot coverage previously granted.

The sunroom will be farther away from property line than the deck was, and basement level will be an open area so the flagstone patio can be used underneath. There will be no decrease in drainage or grassy areas. Mr. Neumann indicated that the engineer or surveyor was able to locate a monument across the lake at Candlewood Pines from the 1920's to delineate the 440 line. Mr. Neumann state his hardship is his proximity to the 440 line and it pre-existed zoning.

Mr. Hanna asked if the addition will be 3' away from 440 line and is this any improvement from deck or is it just the surveyor's reconfiguration. Mr. Neumann said he is taking the deck down.

No one in favor or opposed.

Motion to close #21-17 was made by Joseph Hanna; seconded by Juan Rivas. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore.

Motion to vote was made by Joseph Hanna; seconded by Peter DeLucia. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore.

Motion to approve was made by Joseph Hanna as the setback is being improved, this pre-existed zoning, and it will not adversely affect the health, safety, and welfare of the community; seconded by Richard Roos. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore.

**#21-18: 36 Germantown Road, Danbury Volunteer Fire Department, (J11364), CG-20 Zone,**

Sec. 5.A.3 Reduce minimum South side yard setback from 20' to 0'; Reduce minimum North side yard setback from 20' to 14'; Increase building coverage from 30% to 43%.

Dainius Virbickas, P. E. with Artel Engineering, presented this application on behalf of Danbury Volunteer Fire Battalion, who is seeking variances to allow them to build an addition to the existing firehouse. Mr. Virbickas stated the firehouse is located at 36 Germantown Road at the intersection of Sandpit Road. It is located in the CG-20 Zone. He went on to describe the variances as requested in the application.

The reason for the variances is the volunteers will be merging their facilities. At that point, Mr. Virbickas called upon Mr. Frank Salvatore, Jr. to add his part of the presentation. Mr. Salvatore identified himself as President of the Danbury Volunteer Fire Battalion 31, and he is a sitting Council Member for the City of Danbury; however, he is not acting in the latter capacity tonight. The battalion is the first new fire company in Danbury since 1951. It was created when members from four established Danbury Volunteer fire companies came together in 2018 to discuss the possibility of consolidating the four companies into one stronger unit. On March 18, 2019 the organizational meeting of the battalion was held, officers were elected, and the State of Connecticut officially recognized them.

Mr. Salvatore continued with a history of the Danbury Volunteer Fire Companies. He explained that the four companies reside geographically and serve the northern and eastern portions of Danbury and overlap each other in service areas. He stated the most critical factor is having the

apparatus respond from one location so that the firefighters could be assigned to the units and sent to the call without responding from three different locations.

A building and location committee was established to seek a building or space to meet their minimum needs. Several locations were identified; however, there were insurmountable issues such as prohibitive costs or property that was part of an open space land deal, etc.

Assistant Fire Chief Stephen Williams, a 34-year member of the DFD, spoke in favor of the proposal. He said that under the leadership of Messrs. Salvatore and Coffey, they have done an exceptional job with being responsive with what they need to do and what they're asking of the City in supporting them. Assistant Chief Williams said that tankers are a critical part of the response structure. Recruitment and retention of volunteers are met with an exceptional amount of problems and across the country the volunteer departments struggle to keep their membership up.

A question from Joseph Hanna about construction at the 0'setback arose. Mr. Hanna asked if they would have to go on the other side, thus being on someone else's property. Mr. Coffey said they have hired a structural engineer to address that issue. Adjacent property owners, Mr. & Mrs. Badaracco have been consulted about permission to use a 10' right of way. Juan Rivas questioned Mr. Virbickas about the parking. Mr. Coffey offered to answer. Mr. Coffey said there is a verbal commitment with Mr. Hawley to use the medical building's parking lot across the street in the evening as necessary. They are awaiting a formal letter from Mr. Hawley. Discussion continued about parking spaces and activities that would occur at the firehouse. The space will be used to house the trucks, and they will continue to use their conference room for meeting and trainings.

Motion to close #21-18 was made by Joseph Hanna; seconded by Juan Rivas. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore.

Motion to vote made by Joseph Hanna; seconded by Richard Roos. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore.

Motion to approve was made by Joseph Hanna; seconded by Peter DeLucia. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore.

**#21-19: Musnug Road & Lakeview Drive, Vogel, Michael & Merri, (I05157), RA-20 Zone,**

Reduce minimum rear yard setback from 35' to 20' for single-family dwelling.

Stacey Keaney of Keaney & Co. represented the applicants. Ms. Keaney explained that this variance is for a reduction in the rear setback. Two cottages, which will be demolished, currently occupy the property. A new residence, in the same particular style as existing neighborhood homes, is proposed. The topography is sloping considerably from the top down to the lake. They sought the part of the property with the least amount of resistance. Ralph Gallagher, Jr., P.E. was consulted about the placement of the home.

Acting Chairman Rodney Moore confirmed that he had correctly identified the two cottages scheduled for demolition. Ms. Keaney confirmed that he was correct. Mr. Moore shared the proposed rendering of the new home. Ms. Keaney said it will be a two-story from the lake, with a porch and deck and will be in harmony

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with other lake cottages in size and style. The hardship is the topography, requiring a 17' retaining wall. Ms. Keaney indicated the at the applicant owns Lot 24, which is vacant. She proceeded to explain the winding driveway access.

Michael & Merri Vogel, property owners, were in attendance via ZOOM to speak about the private road, which is part of the Hemlock shores property. There are deeded rights to a community beach; the road serves about four lots and the community beach. Mr. Vogel explained it is an asphalt road and a means that his family and previous owners used to access the property.

Zoning Enforcement Officer Sean Hearty said he discussed the access with the owners and Ms. Keaney, coupled with the removal of the two cottages, and he is satisfied as far as accessing the lot.

Ms. Keaney stated that they are making the home more conforming with less coverage on the lot.

Motion to close #21-19 was made by Joseph Hanna; seconded by Juan Rivas. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore.

Motion to vote was made by Joseph Hanna; seconded by Richard Roos. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore.

Motion to approve was made by Joseph Hanna; seconded by Peter DeLucia. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore.

CONTINUED PUBLIC HEARING:

**#21-09: 3 Lake Avenue Extension LLC, 3 Lake Ave. Ext., (G15005), CA-80 Zone, Use Variance**  
Sec. 5.B.2.a Allow use of property as "shelter for homeless with conditions."

This application will be tabled and continued until the June 10, 2021 meeting upon consent of the applicant. There will be no testimony or public input taken by the ZBA on this application at the May 27<sup>th</sup> meeting.

Motion to table #21-09 until June 10, 2021 was made by Juan Rivas; seconded by Peter DeLucia. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore.

ADJOURNMENT:

Motion to adjourn was made by Richard Roos; seconded by Juan Rivas. All in favor by Joseph Hanna, Juan Rivas, Peter DeLucia, Richard Roos, and Rodney Moore. Meeting adjourned at 9:28 pm.

Respectfully submitted,

Mary S. Larkin, Secretary